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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,224	09/17/2003	Shinji Miyamoto	3408.68347	3378

7590 01/28/2008  
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EXAMINER
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ORTIZ CRIADO, JORGE L

ART UNIT	PAPER NUMBER
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2627

MAIL DATE	DELIVERY MODE
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01/28/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/664,224	Applicant(s) MIYAMOTO ET AL.	
	Examiner Jorge L. Ortiz-Criado	Art Unit 2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 November 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 10-14 is/are pending in the application.
- 4a) Of the above claim(s) 5 and 14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 10-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

With respect to the status of claims 5 and 14, applicant is reminded that the status of the claims should be labeled “withdrawn” and not “original”, because claims 5 and 14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 07/02/2007.

### *Claim Rejections - 35 USC § 102*

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-4 and 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Call et al. 5,172,365.

Regarding claim 1, Call et al. discloses an optical storage apparatus (Fig. 1) for writing and reading a storage medium using a laser beam, comprising:

a light source (14) for emitting a laser beam onto said storage medium (10);

a servo control unit (inherently provided) for performing follow up control of said laser beam (13) onto said storage medium according to a reflected light from said storage medium (reflected and detected at #50);

an automatic power control (APC) detector (31,32, 33) for monitoring the emission power of said light source; and

a control unit (20; 15) for calculating a drive instruction amount based on a detection output (34) of said APC detector, and performs automatic power control of said light source according to said drive instruction amount (current amount instruction 22), so that the emission power on said storage medium is maintained to be a write power during said writing, and the emission power on said storage medium is maintained to be a read power during said reading (see col. 2, lines 15 to 51),

wherein said control unit (20) measures an inclination (S2) of a relationship between said drive instruction amount (current amount instruction 22) and the detection output of said APC detector (Fig. 2), and judges the abnormality (end of life) of said APC detector by comparing “the” pre-measured inclination (S1) of the relationship between said drive instruction amount and the detection output of said APC detector with said measured inclination (see col. 3, line 39 to col. 4 line 21; Fig. 4, step 67; col. 5 lines 1-10), and wherein said measured inclination and said pre-measured inclination are obtained in a same drive instruction amount range (in a same drive current instruction operational range from I1 to I3; Fig. 3).

Regarding claim 2, Call et al. discloses wherein said control unit measures the detection output (34) of said APC detector when said light source is driven with said drive instruction amount (22), and measures the inclination (S2) of the relationship between said drive instruction amount and said detection output (see col. 2, line 52 to col. 3, line 33; Fig. 4).

Regarding claim 3, Call et al. discloses wherein said control unit measures the inclination of the relationship between said drive instruction amount and the detection output of said APC

detector when loading of said storage medium (see col. 5, lines 11-42; when erasable and write-once mediums are loaded).

Regarding claim 4, Call et al. discloses wherein said control unit judges the abnormality of said APC detector by comparing a value obtained by dividing said measured inclination by said pre-measured inclination with the threshold value (see col. 3, line 39 to col. 4 line 21; Fig. 4, step 67).

Method claims 10-13 are drawn to the method of using the corresponding apparatus claimed in claims 1-4. Therefore method claims 10-13 correspond to apparatus claims 1-4 and are rejected for the same reasons of anticipation as used above.

### ***Response to Arguments***

Applicant's arguments filed 11/02/2007 have been fully considered but they are not persuasive.

Applicant argues that Call et al. does not disclose or suggest wherein said measured inclination and said pre-measured inclination are obtained in a same drive instruction amount range.

The examiner cannot concur with the Applicant because the measurements obtained in Call et al. are obtained in the same operational drive currents that range from I1 to I3, as shown in Fig. 3.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jorge L. Ortiz-Criado whose telephone number is (571) 272-7624. The examiner can normally be reached on Mon.-Fri 10:00 am- 6:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Korzuch can be reached on (571) 272-7589. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

joc

/William Korzuch/  
SPE, Art Unit 2627